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1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 -----X

5 YEVGENIY DIKLER,

6 PLAINTIFF,  
7 Docket No. :  
8 07 CIV 5984

9  
10 -against-

11 THE CITY OF NEW YORK,  
12 DETECTIVE MICHAEL VISCONTI Shield # 06482,  
13 SECURITY OFFICER WILSON VEGA,  
14 HWA INC.,

15 DEFENDANTS.  
16 -----X

17 DATE: April 2, 2008

18 TIME: 10:50 a.m.

19 EXAMINATION BEFORE TRIAL of the  
20 Plaintiff, YEVGENIY DIKLER, taken by the  
21 Defendants, pursuant to a Court Order, held at  
22 the offices of LESTER SCHWAB KATZ & DWYER, LLP,  
23 120 Broadway, New York, New York 10271, before  
24 a Notary Public of the State of New York.  
25

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## 1 APPEARANCES:

2 LAW OFFICE OF DAVID A. ZELMAN  
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 Brooklyn, New York 11225

7 MICHAEL A. CARDOZO, ESQ.  
 8 CORPORATION COUNSEL  
 Attorney for the Defendants  
 9 THE CITY OF NEW YORK and  
 MICHAEL VISCONTI Shield # 06482  
 10 100 Church Street  
 New York, New York 10007  
 11 BY: JOYCE CAMPBELL PRIVETERRE,  
 Assistant Corporation Counsel

12 LESTER SCHWAB KATZ & DWYER, LLP  
 13 Attorneys for the Defendants  
 SECURITY OFFICER WILSON VEGA and  
 14 HWA INC.  
 15 120 Broadway  
 New York, New York 10271  
 16 BY: LEONARD S. SILVERMAN, ESQ.

17 \* \* \*

## 20 FEDERAL STIPULATIONS

21 IT IS HEREBY STIPULATED AND AGREED  
 22 By and between the counsel for the respective  
 23 parties hereto, that the filing, sealing, and  
 24 certification of the within deposition shall  
 25 Be and the same are hereby waived;

26 IT IS FURTHER STIPULATED AND AGREED  
 27 That all objections, except as to the form  
 28 Of the question, shall be reserved to the times  
 29 Of the trial.

30 IT IS FURTHER STIPULATED AND AGREED  
 31 That the within deposition may be signed before  
 32 Any Notary Public with the same force and  
 33 effect  
 34 As if signed and sworn to before this court.

35 \* \* \* \*

Page 3

Page 5

## 1 DIKLER

2 verbal. That is, don't nod your head or shake  
 3 your hands, the Court Reporter can't take down  
 4 gestures, so you have to speak your responses;  
 5 do you understand that?

6 A. I understand.

7 Q. And will you comply?

8 A. Yes.

9 Q. Okay. Also if you anticipate what

10 I'm going to ask you, please allow me the  
 11 courtesy of completion because we want a clean  
 12 record so the Court Reporter can take down my  
 13 questions in its entirety and then take down  
 14 your response in its entirety; do you  
 15 understand that?

16 A. I understand.

17 Q. And will you comply?

18 A. Yes.

19 Q. If I ask you a question and you  
 20 don't understand that, just say so, I'm not  
 21 trying to trick you, say I don't understand or  
 22 please ask that again and I will; will you do  
 23 that?

24 A. I will.

25 Q. If you need a break, please say so.

2 (Pages 2 to 5)

Page 6

1 DIKLER  
 2 The only caveat is that you should not ask for  
 3 a break when there's a pending question so you  
 4 are obliged to give your response and then you  
 5 can have your break; do you understand?  
 6 A. I understand.  
 7 Q. And will you comply?  
 8 A. Yes.  
 9 Q. Are you taking any medications  
 10 presently?  
 11 A. Yes.  
 12 Q. What are you taking?  
 13 A. Diovan 160.  
 14 Q. How do you spell that; do you know?  
 15 A. D-I-O-V-A-N 160.  
 16 Q. Milligrams?  
 17 A. This is the name, I don't know.  
 18 Q. Okay. Diovan 160. And what is  
 19 that prescribed for?  
 20 A. High blood pressure.  
 21 Q. Okay. Any other medications?  
 22 A. No.  
 23 Q. Did you take your Diovan this  
 24 morning?  
 25 A. Not yet.

Page 8

1 DIKLER  
 2 MR. ZELMAN: Just try to answer the  
 3 question. Are you still consulting with  
 4 him?  
 5 THE WITNESS: I will.  
 6 Q. You intend to go back to him?  
 7 A. Yes.  
 8 Q. Two weeks ago, you changed your  
 9 primary care physician?  
 10 A. Yes.  
 11 Q. And he was your primary care  
 12 physician; is that right?  
 13 A. Yes.  
 14 Q. Is there a reason that you changed  
 15 two weeks ago?  
 16 A. I got problem with my low back so I  
 17 change for -- I make some osteopath doctor my  
 18 primary physician.  
 19 Q. And what doctor is that, what's the  
 20 doctor's name?  
 21 A. Michael Riskevich.  
 22 Q. Can you help me with the last name?  
 23 If not, we'll leave a blank in the record.  
 24 A. R-I-S-C, no, no (indicating), it's  
 25 much easier for me to put on the paper.

Page 7

1 DIKLER  
 2 Q. Have you taken any other  
 3 prescription drugs or non-prescription drugs  
 4 this morning?  
 5 A. No.  
 6 Q. Have you had anything to drink this  
 7 morning?  
 8 A. Coffee.  
 9 Q. Okay. Any alcoholic beverages?  
 10 A. No.  
 11 Q. Is there anything that would  
 12 prevent you from testifying truthfully and  
 13 accurately this morning?  
 14 A. No.  
 15 Q. Okay. When were you diagnosed with  
 16 high blood pressure?  
 17 A. Couple years ago.  
 18 Q. Couple, is that two, three or more?  
 19 A. Two years ago, approximately.  
 20 Q. And who was the physician that  
 21 prescribed the Diovan?  
 22 A. Dr. Andrew Weiss.  
 23 Q. Are you still consulting with him?  
 24 A. Two weeks ago I change my doctor  
 25 but.

Page 9

1 DIKLER  
 2 Q. Okay.  
 3 A. (Indicating).  
 4 MR. ZELMAN: If you don't remember,  
 5 you don't remember.  
 6 THE WITNESS: I remember.  
 7 A. (Indicating).  
 8 MS. PRIVETERRE: Mr. Dikler has  
 9 handed me a piece of paper with the  
 10 doctor's last name written out,  
 11 R-I-S-K-E-V-I-C-H.  
 12 Q. Are there any other physicians that  
 13 you are presently treating with?  
 14 A. No.  
 15 Q. What's your date of birth, sir?  
 16 A. May 15, 1961.  
 17 Q. And where do you presently reside?  
 18 A. I'm sorry, I don't understand.  
 19 Q. Where do you live?  
 20 A. 1902 81st Street, Apartment 1F like  
 21 Frank, Brooklyn, New York 11214.  
 22 Q. Are you married?  
 23 A. Yes.  
 24 Q. To whom?  
 25 A. Svetlana Anuchina, A-N-U-C-H-I-N-A.

3 (Pages 6 to 9)

1 DIKLER  
2 Q. Do you have any children?  
3 A. Yes.  
4 Q. How many?  
5 A. Four.  
6 Q. What are their names and ages?  
7 A. Igor, age 27 now. Michael, age 25  
8 now. Jennifer, nine. And Maria, six.  
9 Q. How long have you resided at  
10 1902 81st Street?  
11 A. Since 2000.  
12 Q. Are you presently employed?  
13 A. Yes.  
14 Q. By whom?  
15 A. MTA.  
16 Q. What's your job title?  
17 A. Bus operator.  
18 Q. Since when have you been a bus  
19 operator?  
20 A. I was hired January 12, 2004.  
21 Q. You hold a Class D license?  
22 A. Yes.  
23 Q. Any other licenses?  
24 A. I'm sorry. Which class?  
25 Q. D as in Diane, is it D?

1 DIKLER  
2 working as an MTA bus operator?  
3 A. I was working for Empire Auto  
4 Corporation in New Jersey.  
5 Q. By the way, let me just step back.  
6 What is your present bus route?  
7 A. You mean now?  
8 Q. Yes.  
9 A. B44, Nostrand Avenue.  
10 Q. Okay. What was your job title with  
11 Empire Auto Corporation?  
12 A. Truck driver.  
13 Q. For how long were you a truck  
14 driver?  
15 A. Since 1997.  
16 Q. Did you have any other employment  
17 since coming to the United States other than  
18 the MTA and Empire Auto Corporation?  
19 A. Some period I work for myself like  
20 self employee.  
21 Q. Doing what?  
22 A. Delivery on my own truck.  
23 Q. Since coming to the United States,  
24 have you ever been a recipient of any public  
25 aid or welfare?

DIKLER

2 A. My license BP. Commercial, B is  
3 commercial, and P, passenger.

4 Q. Do you hold any other licenses  
5 professional or otherwise?

6 A. No.

7 Q. When did you obtain the Class B  
8 license?

9 A. Around 2000, I don't remember  
10 exactly.

11 Q. Where were you born?

12 A. Soviet Union.

13 Q. And when did you first come to the  
14 United States to live permanently?

15 A. 1996.

16 Q. Are you a citizen of the United  
17 States?

18 A. Yes.

19 Q. Since when?

20 A. Since 2002.

21 Q. 2002?

22 A. Yes.

23 Q. Is your wife also a citizen?

24 A. Not yet.

25 Q. Where were you employed prior to

1 DIKLER  
2 A. No.  
3 Q. How about any Social Security  
4 benefits, any disability benefits?  
5 A. No.  
6 Q. Prior to commencing this lawsuit,  
7 have you ever sued anyone before?  
8 A. Yes.  
9 Q. When was that?  
10 A. This was a car accident in 1999.  
11 Q. And how did that lawsuit resolve?  
12 A. We win.  
13 Q. Was this your private vehicle or  
14 was this while on the job?  
15 A. It was my private vehicle and I was  
16 in the passenger, my wife drive.  
17 Q. I'm going to ask you some questions  
18 about the incident, the date of the incident  
19 being March 22nd 2006; is that correct?  
20 A. Correct.  
21 Q. Did you go to work on March 22nd  
22 2006 or had you the day off?  
23 A. I have to work but I work late.  
24 Q. When you say late, what do you  
25 mean?



<p style="text-align: right;">Page 18</p> <p>1                   DIKLER  2 22nd '06 incident, that's what I'm going to ask  3 you about now.  4           A. I understand.  5           Q. When did you arrive at 26 Federal  6 on 3/22/06?  7           A. After nine o'clock.  8           Q. 9:00 a.m.?  9           A. Yes.  10          Q. Did you have a specific  11 appointment?  12          A. We book the appointment by  13 internet.  14          Q. Did you have to wait on the line in  15 order to get into the building?  16          A. Yes.  17          Q. What happened when you stepped  18 inside of the building?  19          A. When I come to the building, it's  20 like security point, so the people go through  21 the metal detector, and the personal things go  22 on different table through the screen machine.  23          Q. Did you empty out your pockets to  24 put on the conveyor belt?  25          A. I put all my personal things in</p>	<p style="text-align: right;">Page 20</p> <p>1                   DIKLER  2           Q. Like a mustache or a beard or  3 goatee?  4           A. I don't remember.  5           Q. Was he wearing glasses?  6           A. No.  7           Q. What was his approximate height?  8           A. 5'8".  9           Q. How tall are you, sir?  10          A. 5'7".  11          Q. What is your present weight?  12          A. 215.  13          Q. Okay. What was he wearing?  14          A. Brown uniforms. Jacket, brown  15 jackets, all browns.  16          Q. Light brown or dark brown?  17          A. I don't remember, brown. Dark.  18 Dark brown.  19          Q. What did this individual say to  20 you?  21          A. He ask me have I some shields in my  22 pockets, in my jacket.  23          Q. And what did you say in response?  24          A. Yes.  25          Q. What did he do or say after that?</p>
<p style="text-align: right;">Page 19</p> <p>1                   DIKLER  2 some basket and put on the table for screening  3 machine.  4          Q. And what kinds of personal things  5 did you empty out onto the basket?  6          A. My phone, my wallet -- no, I'm  7 sorry. Wallet still in the pocket of jacket.  8 My jacket. Some change from my pocket, all  9 metal things.  10         Q. Did you have to take off your belt?  11         A. I don't remember.  12         Q. Okay. Did anyone at the security  13 checkpoint say anything to you about any of the  14 items in basket?  15         A. Yes.  16         Q. Okay. Do you recall who said  17 anything to you, who was this person?  18         A. Security officer.  19         Q. Okay. Can you describe this  20 individual?  21         A. Black male, around 30, skinny.  22         Q. Did he have any facial hair?  23         A. Not really.  24         Q. I'm sorry?  25         A. Not really.</p>	<p style="text-align: right;">Page 21</p> <p>1                   DIKLER  2           A. He called to federal security  3 office in the same building.  4           Q. How did he call; did he use a radio  5 or did he call out?  6           A. By radio.  7           Q. Did he say anything to you before  8 calling on the radio?  9           A. Wait aside.  10          Q. So you had to step aside?  11          A. Yes.  12          Q. Okay. What about your wife?  13          A. She stay with me.  14          Q. So had she gone through already or  15 was she behind you in the line?  16          A. We was in different lines because  17 the one line to the building and after that  18 they divide for a few lines on different  19 checkpoints.  20          Q. Okay. Was she present when you  21 were emptying out your items into the basket?  22          A. I'm sorry?  23          Q. She was not near you as you emptied  24 out your items into the basket?  25          A. I don't remember.</p>

Page 22

1 DIKLER

2 Q. Was she standing near you when the  
 3 security officer addressed you about the  
 4 shield?

5 A. Can you repeat, please.

6 MS. PRIVETERRE: Can you repeat  
 7 that for him.

8 (Whereupon, the referred to  
 9 question and answer was read back by the  
 10 Reporter.)

11 A. She was not so far. I don't  
 12 remember exactly but.

13 Q. Could you approximate how far she  
 14 was standing from you?

15 A. Few feet.

16 Q. Do you recall what the security  
 17 officer said over the radio?

18 A. I don't remember.

19 Q. Okay. How long did you wait before  
 20 someone responded?

21 A. Very short.

22 Q. What is very short?

23 A. One minute, probably two minutes.

24 Q. Did someone come in response?

25 A. Yes.

Page 24

1 DIKLER

2 wallet from the basket or was he handed the  
 3 wallet?

4 A. No, the wallet was on security  
 5 officer, so security officer give my wallet to  
 6 federal security detective.

7 Q. How do you know it was federal  
 8 security?

9 A. He got chevron on his shirt.

10 Q. What color was his uniform?

11 A. Dark blue.

12 Q. Was it a dark blue jacket?

13 A. This was dark blue shirt and pants.

14 It was complete uniform.

15 Q. Did he have any facial hair?

16 A. It was a little bit big face, white  
 17 male.

18 Q. Did he have any mustache, any beard  
 19 or goatee?

20 A. I don't remember now.

21 Q. Was he wearing glasses?

22 A. No.

23 Q. What color was his hair?

24 A. I don't remember.

25 Q. And did you see this individual

Page 23

Page 25

1 DIKLER

2 Q. Okay. And who came?

3 A. White male.

4 Q. About how old?

5 A. My age, around 45.

6 Q. Height and build?

7 A. I'm sorry?

8 Q. What was his height and build?

9 A. Approximately like me, little bit

10 higher. Around six feet.

11 Q. How much did you weigh at the time  
 12 of this incident, 3/22/06?

13 A. What do you mean?

14 Q. How much did you weigh at the time  
 15 of this incident?

16 A. 190, 195.

17 Q. Did this individual say anything to  
 18 you?

19 A. He check my ID, he took my ID, he  
 20 took my driver license and he took all my  
 21 wallet.

22 Q. Well, was your ID and your driver's  
 23 license inside of your wallet?

24 A. Yes.

25 Q. Did this white male remove the

1 DIKLER

2 take your ID out of your wallet and take your  
 3 driver's license out of your wallet?

4 A. He take out all papers from my  
 5 wallet, he give me back my credit cards and he  
 6 left with him all my ID.

7 Q. Did he ask you any questions about  
 8 what he removed from the wallet?

9 A. I don't understand.

10 Q. Did he ask you questions about the  
 11 items that he took from your wallet?

12 A. Only about the badge.

13 Q. What did he ask you about the  
 14 badge?

15 A. Why I got it.

16 Q. What kind of badge was it?

17 A. It's the badge.

18 MR. ZELMAN: Objection to form.

19 You can answer.

20 A. Gold, the gold color, the emblem of  
 21 City of New York on the top. The New York City  
 22 Transit Authority words, badge number, my  
 23 personal badge number and title operator on the  
 24 bottom, that's it.

25 Q. Was this a badge issued by the MTA?

7 (Pages 22 to 25)

<p>1 DIKLER</p> <p>2 A. I make order for this badge in my</p> <p>3 depot.</p> <p>4 Q. That's not my question. Was this</p> <p>5 badge issued by the MTA?</p> <p>6 MR. ZELMAN: Objection. You can</p> <p>7 answer. If you understand.</p> <p>8 A. I understand the question. I</p> <p>9 bought this badge on my depot property from I</p> <p>10 think official vendor.</p> <p>11 Q. Do you understand what I'm asking?</p> <p>12 Did the MTA issue you this badge? It's a yes</p> <p>13 or a no.</p> <p>14 MR. ZELMAN: Objection.</p> <p>15 A. I don't know.</p> <p>16 Q. You don't know if the MTA issued</p> <p>17 you this badge?</p> <p>18 MR. ZELMAN: Objection.</p> <p>19 A. I'm not sure it's MTA but I buy, I</p> <p>20 bought this badge on my depot, the guy who sell</p> <p>21 the different MTA stuff is all MTA logos, MTA,</p> <p>22 like hats, jackets, T-shirts, wallets. The</p> <p>23 letter cases, letter, what's that? For badges,</p> <p>24 shoulder badges, and that's it.</p> <p>25 Q. Where is the human resources</p>	<p>1 DIKLER</p> <p>2 A. The key from wheelchair lift,</p> <p>3 that's it.</p> <p>4 Q. With respect to the other badge</p> <p>5 that you described, gold color with the emblem</p> <p>6 of the City of New York and New York City</p> <p>7 Transit Authority badge number and title, did</p> <p>8 you get that badge at the Livingston Street</p> <p>9 location?</p> <p>10 A. No.</p> <p>11 Q. Were you instructed by anyone at</p> <p>12 the Livingston Street location to buy another</p> <p>13 badge?</p> <p>14 A. No.</p> <p>15 Q. Did you require another badge in</p> <p>16 order to perform your duties as a bus operator?</p> <p>17 A. I don't understand the question.</p> <p>18 MS. PRIVETERRE: Can you repeat</p> <p>19 that.</p> <p>20 (Whereupon, the referred to</p> <p>21 question was read back by the Reporter.)</p> <p>22 A. No.</p> <p>23 Q. When did you get the second badge?</p> <p>24 A. Spring 2005.</p> <p>25 Q. You don't recall the month?</p>
<p>1 DIKLER</p> <p>2 department for the MTA; do you know?</p> <p>3 A. Manhattan. I was hired on the job</p> <p>4 in Brooklyn.</p> <p>5 MR. ZELMAN: She's not asking where</p> <p>6 you're hired, she's asking where is the</p> <p>7 human resources department, if you know.</p> <p>8 A. I don't know.</p> <p>9 Q. You said you were hired in</p> <p>10 Brooklyn, is that the Livingston Street</p> <p>11 location?</p> <p>12 A. Yes.</p> <p>13 Q. And when you were hired at the</p> <p>14 Livingston Street location, were you given</p> <p>15 anything from the MTA at that time?</p> <p>16 A. Yes.</p> <p>17 Q. What items were you given?</p> <p>18 A. The pass, another name work ID and</p> <p>19 the shoulder badge.</p> <p>20 Q. Could you describe for me the</p> <p>21 shoulder badge?</p> <p>22 A. The badge, it's like MTA logo. My</p> <p>23 personal badge number and the title operator.</p> <p>24 Q. Anything else that you were given</p> <p>25 at that time?</p>	<p>1 DIKLER</p> <p>2 A. I don't remember exactly.</p> <p>3 Q. And from whom did you purchase this</p> <p>4 other badge?</p> <p>5 A. The vendor.</p> <p>6 Q. What was the vendor's name?</p> <p>7 A. I don't know.</p> <p>8 Q. Where is the vendor's office</p> <p>9 located?</p> <p>10 A. I don't know.</p> <p>11 Q. Where did you first meet this</p> <p>12 vendor?</p> <p>13 A. He sell different stuff in my depot</p> <p>14 once per two weeks for a long time. Every two</p> <p>15 weeks it was like tables inside the depot.</p> <p>16 Q. Which depot is this?</p> <p>17 A. Flatbush depot.</p> <p>18 Q. What's the vendor's name?</p> <p>19 A. I don't know.</p> <p>20 Q. When is the last time you met with</p> <p>21 the vendor?</p> <p>22 A. I don't know.</p> <p>23 Q. Did you purchase anything else from</p> <p>24 the vendor?</p> <p>25 A. Some souvenir stuff.</p>

Page 30

1 DIKLER  
 2 Q. What kind of souvenirs?  
 3 A. Like small toys, buses, because --  
 4 I'm sorry, that's it.  
 5 Q. Anything else?  
 6 A. Some T-shirts, MTA logos.  
 7 Q. You said that the vendor sold the  
 8 items at the depot, was he inside of the  
 9 building or outside of the building or  
 10 somewhere else?  
 11 A. Inside the building in the swing  
 12 room.  
 13 Q. I'm sorry?  
 14 A. Swing room, restroom for the bus  
 15 operator, swing room.  
 16 Q. The swing room?  
 17 A. Yes.  
 18 Q. Okay. Is that like a recreational  
 19 room?  
 20 A. Yes, it's a TV, it's pool tables,  
 21 it's diner's tables.  
 22 Q. Do you have any invoices for any  
 23 bills of sale for that badge that you purchased  
 24 from the vendor?  
 25 A. I have one but I don't know where

Page 32

1 DIKLER  
 2 different size.  
 3 Q. Do you recall whether or not the  
 4 badge you chose had a specific catalog number  
 5 or style, name or number?  
 6 A. No, I just point my finger on that.  
 7 Q. Why did you choose the badge that  
 8 you chose?  
 9 A. Because it was like part of the  
 10 wallet inside the wallet, you can't take it out  
 11 because it takes long time because it's already  
 12 part of the wallet so it's always with you and  
 13 you not supposed to be special like wear some  
 14 badge, it just I like the style and it was  
 15 comfortable for me.  
 16 Q. So the badge came with inside of a  
 17 wallet?  
 18 A. Yes. You buy the wallet, you make  
 19 order for wallet.  
 20 MR. ZELMAN: The question is, did  
 21 the badge come inside the wallet?  
 22 A. Yes.  
 23 Q. Did you have to purchase or make  
 24 two separate orders, one for the badge and one  
 25 for the wallet?

Page 31

Page 33

1 DIKLER  
 2 it is.  
 3 MS. PRIVETERRE: Okay. I'm going  
 4 to call for production and I will  
 5 memorialize this demand in writing.  
 6 MR. SILVERMAN: I join in that  
 7 request, I'm going to memorialize it as  
 8 well.  
 9 MR. ZELMAN: He said he doesn't  
 10 know where it is.  
 11 MS. PRIVETERRE: Well, he can think  
 12 about it when he leaves today.  
 13 MR. ZELMAN: Are you sure you have  
 14 it or you don't know?  
 15 THE WITNESS: This badge, you can't  
 16 just buy it, you make an order.  
 17 MR. ZELMAN: Wait for the question.  
 18 Let's move on.  
 19 Q. How did you place the order?  
 20 A. I place the order from this vendor.  
 21 Q. Did he show you any books or  
 22 magazines or catalogs?  
 23 A. He got some samples.  
 24 Q. He showed you a sample?  
 25 A. Yes, this was different form,

1 DIKLER  
 2 A. No.  
 3 Q. So how did the vendor know which  
 4 wallet to put with the badge?  
 5 MR. ZELMAN: Objection. You can  
 6 answer.  
 7 A. He got the samples. I show him  
 8 exactly what I want.  
 9 Q. So you pointed out what badge and  
 10 what wallet?  
 11 A. No, you can't put separate wallet  
 12 and badge. It's like one piece.  
 13 Q. Okay. What color was the wallet?  
 14 A. Black.  
 15 Q. Was this leather?  
 16 A. Yes.  
 17 Q. How much did it cost you?  
 18 A. \$40 when you make an order, and six  
 19 weeks when you pick it up the stuff, another  
 20 \$45.  
 21 Q. Was the badge gold plated?  
 22 A. Yes.  
 23 Q. Do you have the badge with you  
 24 today?  
 25 A. When I was arrested, the badge --

9 (Pages 30 to 33)

Page 34

1 DIKLER

2 MR. ZELMAN: Do you have the badge  
3 with you today?

4 THE WITNESS: No.

5 Q. Have you purchased another badge?

6 A. No.

7 Q. Do you still have the badge that  
8 was issued to you by the MTA?

9 A. Yes.

10 Q. And did you wear that badge when  
11 you were working as a bus operator?

12 A. Yes.

13 Q. Did you believe at the time that  
14 you were purchasing this second badge that this  
15 was being issued, this badge was being issued  
16 by the MTA?17 MR. ZELMAN: Objection. You can  
18 answer.

19 A. I don't know.

20 Q. You didn't?

21 A. I did know.

22 Q. You did know?

23 A. I did know.

24 Q. You did know what?

25 MR. ZELMAN: Objection. You didn't

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1 DIKLER

2 operators.

3 Q. Okay. Would you carry the gold  
4 plated badge that you purchased from the  
5 vendor, would you carry that while you were  
6 working as a bus operator?7 A. It was inside my wallet. It's  
8 always with me.9 Q. And what was your purpose for  
10 purchasing this second badge?

11 A. It was actually two reasons.

12 First, almost all bus operators which I know,  
13 they got these badges, and second one, when you  
14 on work, I mean in uniform, you got the  
15 shoulder badges, it's like proof of your work,  
16 but when you civil clothing, out of a job, this  
17 is like proof of your job.18 Q. Who told you that this second badge  
19 was proof of your employment?

20 MR. ZELMAN: Objection.

21 A. Nobody tell me that.

22 Q. Did you ever use this second badge  
23 for that purpose, to prove that you worked as a  
24 bus operator?

25 A. No.

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1 DIKLER

2 know? Or you did know?

3 A. I did know -- I didn't know, I  
4 didn't know. When I bought this badge, I  
5 didn't know this is from MTA or not.

6 Q. Did you ask the vendor?

7 A. No.

8 Q. Why not?

9 MR. ZELMAN: Objection.

10 A. I was sure he sell the legal stuff  
11 inside the depot.12 Q. Did he make that representation to  
13 you?

14 A. I'm sorry?

15 Q. Did he tell that to you, that this  
16 was legal?

17 A. I don't remember.

18 Q. Did he, did the vendor tell you  
19 that what he was selling was issued by the MTA?

20 A. He didn't.

21 Q. Did you know any other bus operator  
22 that had purchased from him?

23 A. Yes.

24 Q. Any friends of yours?

25 A. It's not my friends but bus

1 DIKLER

2 Q. Did you ever speak to anyone at  
3 Livingston Street about purchasing this second  
4 badge?

5 A. No.

6 Q. Have you subsequently purchased  
7 anything from that vendor?

8 A. From this vendor?

9 Q. Yes, other than the souvenirs and  
10 the badge.11 A. Yes, from this and from another  
12 vendor too.

13 Q. From the same company, do you know?

14 A. I don't know. They was on  
15 different days.16 Q. When is the last time you made such  
17 a purchase from a vendor?

18 MR. ZELMAN: Objection.

19 A. I don't remember.

20 Q. You said that part of your reason  
21 was that all bus operators have this badge?

22 A. Almost everyone that I know.

23 Q. How many people would you say that  
24 you know that have purchased such a badge?

25 A. I don't know.

10 (Pages 34 to 37)

<p>1 DIKLER</p> <p>2 Q. More than five?</p> <p>3 A. Excuse me?</p> <p>4 Q. More than five?</p> <p>5 A. Yes.</p> <p>6 Q. More than ten?</p> <p>7 A. I am not sure.</p> <p>8 Q. Had you any occasion to show this badge to anyone else?</p> <p>9 A. No.</p> <p>10 MR. ZELMAN: Objection.</p> <p>11 Q. Did you show it to friends?</p> <p>12 A. Sometimes. It's like souvenir.</p> <p>13 Q. Why do you say it's like a souvenir?</p> <p>14 A. Because when I bought this badge, it was souvenir.</p> <p>15 Q. Why did you require a souvenir if you already had an MTA issued badge?</p> <p>16 MR. ZELMAN: Objection.</p> <p>17 A. Like I said before, two reasons.</p> <p>18 First, just because almost everyone got this badge. And second one, just like it show you work for MTA.</p> <p>19 Q. You were issued an ID from the MTA,</p>	<p>Page 38</p> <p>1 DIKLER</p> <p>2 Q. Just those two?</p> <p>3 A. In my depot, I know about two, I saw two different vendors that sell the same stuff.</p> <p>4 Q. Did you ever visit any other depots to make other purchases?</p> <p>5 A. No.</p> <p>6 Q. You wear a uniform as a bus operator, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And where do you obtain your uniforms?</p> <p>9 A. I'm sorry?</p> <p>10 Q. Where do you get your uniforms from?</p> <p>11 A. From MTA.</p> <p>12 Q. Would that include your jacket, your pants?</p> <p>13 A. Everything.</p> <p>14 Q. Your shirts?</p> <p>15 A. Everything.</p> <p>16 Q. And this is the MTA uniform, the bus operator uniform?</p> <p>17 A. Yes.</p>	<p>Page 40</p> <p>1 DIKLER</p> <p>2 Q. Does the jacket have the insignia or any words that indicate MTA?</p> <p>3 A. MTA logo on the sleeve, that's it.</p> <p>4 Q. Have you ever purchased a uniform from a vendor?</p> <p>5 A. No.</p> <p>6 Q. Did either of these vendors that you purchased items from, did they tell you that they worked with the MTA?</p> <p>7 A. No.</p> <p>8 Q. Did they tell you that they had been authorized to sell items by the MTA?</p> <p>9 MR. ZELMAN: Objection.</p> <p>10 A. I don't know, but they sell the stuff inside the MTA depot.</p> <p>11 Q. Was it your understanding that the second badge was an official MTA shield?</p> <p>12 A. Now I know that.</p> <p>13 Q. Know that what?</p> <p>14 A. Now, you know, it's unofficial.</p> <p>15 Q. It's an official?</p> <p>16 A. Now I know that.</p> <p>17 MR. ZELMAN: Unofficial.</p> <p>18 Q. When did you first become aware</p>
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1 DIKLER  
 2 that it's an unofficial badge?  
 3 A. When I was arrested.  
 4 Q. Prior to being arrested, you  
 5 thought that it was an official badge?  
 6 A. Yes.  
 7 Q. Why?  
 8 A. I'm sorry, can you repeat the  
 9 question.  
 10 (Whereupon, the referred to  
 11 question was read back by the Reporter.)  
 12 A. I'm sorry, can you rephrase this  
 13 question?  
 14 Q. Sure. What was the basis of your  
 15 belief that the second badge was an official  
 16 MTA badge?  
 17 MR. ZELMAN: Objection.  
 18 A. Police detective tell me this is a  
 19 fake badge, police detective tell me.  
 20 Q. When were you told this by a police  
 21 detective?  
 22 A. When they arrest me.  
 23 Q. What did he say?  
 24 A. They say you have fake badge.  
 25 MR. ZELMAN: Let's take five

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1 DIKLER  
 2 MR. ZELMAN: Objection.  
 3 A. I don't understand the question.  
 4 Q. Is it your statement that following  
 5 your arrest, that's when you first were  
 6 informed that the second badge was not an  
 7 official MTA badge?  
 8 MR. ZELMAN: Objection.  
 9 Q. Is that correct?  
 10 A. It's first time when I was  
 11 arrested, it's first time when I got some  
 12 knowledge about it's illegal badge.  
 13 Q. Okay.  
 14 A. Before, I didn't know that.  
 15 Q. And my question was, what was the  
 16 basis for your understanding prior to your  
 17 arrest? What was the basis for your  
 18 understanding that you had an official MTA  
 19 badge?  
 20 MR. ZELMAN: Objection.  
 21 Q. And I'm talking about the one you  
 22 purchased from the vendor.  
 23 MR. ZELMAN: Objection.  
 24 A. When I bought it from the vendor, I  
 25 didn't know it's unofficial MTA badge.

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1 DIKLER  
 2 minutes before you ask the next  
 3 question.  
 4 MS. PRIVETERRE: I don't want you  
 5 coaching him because you didn't like how  
 6 that came out.  
 7 MR. ZELMAN: There's no question  
 8 pending.  
 9 MS. PRIVETERRE: I am going to  
 10 rephrase the question, it's not  
 11 complete, allow me the courtesy of  
 12 rephrasing the question because I think  
 13 there is some misunderstanding.  
 14 MR. ZELMAN: There is obviously.  
 15 MS. PRIVETERRE: So I want to clean  
 16 it up.  
 17 MR. ZELMAN: How many questions  
 18 before I can go to the bathroom?  
 19 MS. PRIVETERRE: Let me clean this  
 20 up and you can take your break.  
 21 Q. Mr. Dikler, I'm asking, it's your  
 22 testimony that following your arrest you first  
 23 became aware that the second badge was not an  
 24 official MTA badge?  
 25 A. I don't understand the question.

Page 45

1 DIKLER  
 2 MR. ZELMAN: That's your answer.  
 3 Can I take a break now please?  
 4 Let's go outside.  
 5 (Whereupon, a short recess was  
 6 taken.)  
 7 MR. ZELMAN: I think it's clear he  
 8 didn't understand the question.  
 9 Q. Why did you believe that the second  
 10 badge was official?  
 11 MR. ZELMAN: Objection.  
 12 A. I don't know.  
 13 Q. What other items did the vendor  
 14 sell or either vendor that you dealt with?  
 15 MR. ZELMAN: Objection.  
 16 A. Either vendor, different, some  
 17 jewelry with MTA logo, hair pieces, some  
 18 jewelry, bracelets with the buses.  
 19 Q. Did all of the items have the MTA  
 20 or an MTA logo?  
 21 A. You have to make order for this  
 22 jewelry because they put your pass number.  
 23 Q. And in the order, do you also  
 24 specify the company?  
 25 A. I don't remember.

12 (Pages 42 to 45)

1 DIKLER

2 Q. Well, when you were ordering the  
 3 second badge, did you have to specify that you  
 4 wanted MTA on the badge?

5 A. It's already was some samples.

6 Q. What kind of symbols?

7 A. Samples of the badge, so you just  
 8 point your finger, I want that.

9 Q. The sample that you pointed to, did  
 10 that already have the MTA, the words MTA  
 11 spelled out?

12 A. New York City Transit Authority.

13 Q. Yes, did it have that?

14 A. Yes.

15 Q. And did you see that on the other  
 16 items that the vendors were selling?

17 MR. ZELMAN: Objection.

18 A. Yes.

19 MS. PRIVETERRE: Let me mark that  
 20 as an exhibit.

21 (Whereupon, the aforementioned  
 22 Documents were marked as Defendant's  
 23 Exhibit A-B for identification as of  
 24 this date by the Reporter.)

25 Q. All right. Mr. Dikler, I'm going

1 DIKLER

2 Q. Did the vendor give you any  
 3 information about this style of this badge?

4 A. No.

5 Q. When you looked in the catalog or  
 6 the book and pointed out this badge --

7 A. This was not catalog.

8 MR. ZELMAN: You have to let her  
 9 finish the question.

10 Q. What kind of then document did you  
 11 point at to indicate that you wanted that  
 12 badge?

13 A. It was the badge.

14 Q. Oh, the badge itself, so it was a  
 15 sample?

16 A. It was a sample. Different wallets  
 17 and different badges.

18 Q. Were all of the samples that the  
 19 vendor showed you in this style?

20 A. I don't remember.

21 Q. And why is it that you chose this  
 22 particular style?

23 MR. ZELMAN: Objection.

24 A. I like it.

25 Q. Okay. Had you seen this styling

1 DIKLER

2 to show you what's been marked as Defendant's  
 3 Exhibit A and let you take a look at this  
 4 (indicating).

5 A. (Indicating).

6 Q. Do you recognize what's depicted?

7 A. Yes.

8 Q. And could you describe for the  
 9 record what you see?

10 A. This the wallet completely open, my  
 11 driver license, the badge inside the wallet and  
 12 my work pass.

13 Q. Okay. And though this is a black  
 14 and white copy, the badge that's in the middle  
 15 of the two cards you're saying is gold plated?

16 A. It's gold plated and blue and white  
 17 New York City emblems on the center.

18 MR. SILVERMAN: Is this the badge  
 19 that was taken from you on the date of  
 20 this incident?

21 THE WITNESS: I'm sorry?

22 MR. SILVERMAN: Do you believe this  
 23 to be a copy of the badge that was taken  
 24 from you on the day of the incident?

25 THE WITNESS: I don't know.

1 DIKLER

2 anywhere else?

3 A. No.

4 Q. Do you know this style to be  
 5 referred to as the Starburst, is that a name  
 6 that's familiar to you?

7 A. No.

8 Q. Did the vendor describe the badge  
 9 in that manner?

10 A. No.

11 Q. So the sample, as you first saw it,  
 12 had this emblem?

13 A. Yes.

14 Q. With the exception of the badge  
 15 number?

16 A. It was different number.

17 Q. Okay. And it was your

18 understanding that you could purchase the badge  
 19 and then have your number, your shield number  
 20 inserted; is that correct?

21 A. When you put the order, he check  
 22 your pass, he check your badge number from MTA  
 23 and he receive your order.

24 Q. Did the vendor sell handcuffs?

25 A. I'm sorry?

<p style="text-align: right;">Page 50</p> <p>1 DIKLER</p> <p>2 Q. Handcuffs.</p> <p>3 A. No.</p> <p>4 Q. Did the vendor sell any guns?</p> <p>5 A. No.</p> <p>6 Q. Did the vendors sell any batons?</p> <p>7 A. No.</p> <p>8 Q. Did the vendors sell any items that</p> <p>9 did not say New York City Transit Authority?</p> <p>10 A. Yes.</p> <p>11 Q. And what kinds of items were those?</p> <p>12 A. It was too many items, too much</p> <p>13 different items, the watches, it's like two</p> <p>14 tables like that, different stuff. Not just</p> <p>15 MTA logo stuff.</p> <p>16 Q. Did you see any other agency logo</p> <p>17 on any of these other items?</p> <p>18 A. No.</p> <p>19 Q. I'm going to show you what's been</p> <p>20 marked as Defendant's Exhibit B, I'll let you</p> <p>21 take a look at that (indicating).</p> <p>22 A. (Indicating) This is my work badge.</p> <p>23 Q. Okay. Is that the badge that was</p> <p>24 issued to you at the Livingston Street</p> <p>25 location?</p>	<p style="text-align: right;">Page 52</p> <p>1 DIKLER</p> <p>2 A. Both of them, they got MTA passes.</p> <p>3 Q. What kind of MTA pass?</p> <p>4 A. Regular like I got, the same MTA</p> <p>5 pass (indicating).</p> <p>6 Q. A bus operator pass?</p> <p>7 A. I don't know. MTA pass.</p> <p>8 Q. How did you know it was an MTA</p> <p>9 pass?</p> <p>10 A. By form, by color. And when you</p> <p>11 enter the MTA property, you must wear the MTA</p> <p>12 pass on your chest.</p> <p>13 Q. Describe for me the form and the</p> <p>14 color, is it the same that's depicted in</p> <p>15 Defendant's Exhibit --</p> <p>16 A. Absolutely the same.</p> <p>17 Q. What color?</p> <p>18 A. The red color for men and blue</p> <p>19 color for women.</p> <p>20 Q. When you say they were wearing it,</p> <p>21 is this a pass that you can affix to your shirt</p> <p>22 or your jacket?</p> <p>23 A. It doesn't matter. Usually it's</p> <p>24 like on some (indicating).</p> <p>25 MR. ZELMAN: Can you affix it to</p>
<p style="text-align: right;">Page 51</p> <p>1 DIKLER</p> <p>2 A. Yes.</p> <p>3 Q. And is this the badge that you wear</p> <p>4 when you are on the job as a bus operator?</p> <p>5 A. Yes.</p> <p>6 Q. Did you have the badge that's</p> <p>7 depicted in Defendant's Exhibit B on the date</p> <p>8 of the incident, March 22nd 2006?</p> <p>9 A. I don't have this badge with me.</p> <p>10 Q. And why were you not wearing that</p> <p>11 or carrying that badge?</p> <p>12 A. I wear this badge when I wear</p> <p>13 uniform only.</p> <p>14 Q. So you only wear what's depicted in</p> <p>15 Defendant's Exhibit B when you're on the job?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. Can you give me a physical</p> <p>18 description of the second vendor that you say</p> <p>19 you purchased from?</p> <p>20 A. Old man, between 60 and 70. My</p> <p>21 height, and slim, gray hair, like haircut,</p> <p>22 nice, glasses, gold glasses. Always white</p> <p>23 shirt and dark pants, that's it.</p> <p>24 Q. Did the second vendor have anything</p> <p>25 identifying himself as an MTA employee?</p>	<p style="text-align: right;">Page 53</p> <p>1 DIKLER</p> <p>2 your shirt or your jacket? That's the</p> <p>3 question.</p> <p>4 A. If you got some clips, yes.</p> <p>5 Q. Is it sometimes worn in a card</p> <p>6 holder around the neck?</p> <p>7 A. Yes.</p> <p>8 Q. Do you have any invoices from the</p> <p>9 second vendor?</p> <p>10 A. No.</p> <p>11 Q. Do you have any business cards from</p> <p>12 either vendor?</p> <p>13 A. No.</p> <p>14 Q. Did you purchase any other items</p> <p>15 from either vendor that were related to your</p> <p>16 work as a bus operator?</p> <p>17 A. No.</p> <p>18 Q. Stepping back to what happened at</p> <p>19 26 Federal. The white male security officer,</p> <p>20 after checking your ID and your driver's</p> <p>21 license, did he say anything to you?</p> <p>22 A. He let me go to the appointment</p> <p>23 with my wife. But he tell me I have to come</p> <p>24 back to security office when appointment will</p> <p>25 be finished.</p>

1 DIKLER  
2 Q. How long was the appointment?  
3 A. I don't remember, 30 minutes.  
4 Q. And did you return?  
5 A. Sure.  
6 Q. And where did you go?  
7 A. Excuse me?  
8 Q. Where did you go?  
9 A. On the first floor, federal  
10 security service office.  
11 Q. Did you see the same security  
12 officer?  
13 A. Yes, I knock the door and the same  
14 officer tell me wait before the door.  
15 Q. I'm sorry, wait for?  
16 A. Wait outside. Wait outside the  
17 office.  
18 Q. How long did you wait?  
19 A. Around one and a half hours, about  
20 two hours.  
21 Q. And what happened during those two  
22 hours?  
23 A. My wife, she leave me because she  
24 supposed to go to the kids to home. I ask  
25 officer how long I supposed to wait and he tell

DIKLER  
1 tell me I got illegal, fake badge and they're  
2 going to arrest me.  
3 Q. How do you know this individual was  
4 a detective?  
5 A. He identify himself. The call the  
6 name and tell me the detective from 5th  
7 Precinct.  
8 Q. Okay. So you were introduced to  
9 this person by the security officer?  
10 A. I don't remember because I was  
11 shocked.  
12 Q. Did you see any sort of badge on  
13 this individual that you say was a detective?  
14 A. Yes, they carry some badges, I  
15 don't remember but they got something.  
16 Q. I'm sorry?  
17 A. They have some badges.  
18 Q. Do you remember seeing though a  
19 badge on this person you're calling a  
20 detective?  
21 A. No, I don't remember.  
22 Q. Did he show you any badge?  
23 A. I remember one officer got badge on  
24 the neck and another on the belt, something

Page

DIKLER

2 me he try connect to the MTA office for get  
3 some information about me and about this badge.

4 Q. Did he say anything else?

5 A. No.

6 Q. Where did you wait during the two  
7 hours, were you inside of the security office?

8 A. No, it was two chairs just right  
9 behind the door outside the office.

10 Q. Approximately what time was it when  
11 you were first told to sit outside?

12 A. Around maybe 10:30, 11:00, I don't  
13 remember.

14 Q. At this point, had any of your  
15 items been returned to you?

16 A. Only credit cards.

17 Q. What about the cell phone?

18 A. It was with me. I carry.

19 Q. After about two hours, did the  
20 security officer come outside?

21 A. He call me to the room.

22 Q. He called you inside?

23 A. Right.

24 Q. What did he say to you?

25 A. Not him. The detective. Detective

1 DIKLER  
2 like that. But I don't remember exactly.  
3 Q. Were these other officers federal  
4 security officers or New York City police  
5 department officers?  
6 A. It was federal security officer and  
7 another three men. Two detectives from 5th  
8 Precinct and one more detective, I don't know.  
9 Q. You don't know if it was a federal  
10 or NYPD?  
11 A. I don't know who the third man. He  
12 didn't introduce himself.  
13 Q. But my question is, with respect to  
14 the two men that you identified as detectives,  
15 did either of them show you any sort of shield  
16 or badge?  
17 A. I'm sorry, can you repeat the  
18 question.  
19 Q. The two people that you identify as  
20 having been detectives, did either of these  
21 people show you any sort of badge or shield?  
22 A. Yes, they show me some badge.  
23 Q. Can you describe for me the badge?  
24 A. No, I can't.  
25 Q. Do you recall what color it was?

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1 DIKLER  
 2 A. I don't remember nothing.  
 3 Q. Do you recall what shape?  
 4 A. I don't, no, it was some police  
 5 badges, I don't know.  
 6 Q. Had you seen that type of police  
 7 badge before?  
 8 A. Just on regular police officer in  
 9 the streets, like patrol police got badge on  
 10 their jackets, that's it.  
 11 Q. What about a detective's badge?  
 12 A. I never see that before.  
 13 Q. Before March 22nd 2006?  
 14 A. Yes, I never speak with detective  
 15 before.  
 16 Q. Did the badge that you saw, the  
 17 detective's badges that you saw on March 22nd  
 18 2006 resemble what's depicted in Defendant's  
 19 Exhibit A?  
 20 A. I don't remember.  
 21 Q. Had anyone ever informed you that  
 22 what's depicted in Defendant's Exhibit A, the  
 23 shield that is in the middle of the two cards  
 24 that have been also copied, did anyone ever  
 25 tell you that this badge resembles a detective

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1 DIKLER  
 2 A. I don't remember, I don't remember  
 3 this day.  
 4 Q. Can you give me a physical  
 5 description of either detective?  
 6 A. One detective exactly like me, just  
 7 two white guys, men, one, too, my age.  
 8 Another, a little bit younger. One, the same  
 9 like me. Another, the fat guy. That's it.  
 10 Q. What about the height?  
 11 A. I don't remember.  
 12 Q. Taller than you or shorter than  
 13 you?  
 14 A. One of them, probably the same like  
 15 me. Another, a little bit higher.  
 16 Q. Hair color, do you remember?  
 17 A. No.  
 18 Q. Were they in uniform or plain  
 19 clothes?  
 20 A. Plain clothes.  
 21 Q. Did either of them have any facial  
 22 hair; mustache, goatee, beard?  
 23 A. I don't remember.  
 24 Q. Did either of them wear glasses?  
 25 A. I don't remember.

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1 DIKLER  
 2 shield?  
 3 A. Nobody.  
 4 Q. When you showed this to friends,  
 5 did they ever mention that it had a resemblance  
 6 to a detective shield?  
 7 A. No.  
 8 Q. How many friends would you say you  
 9 showed that shield to?  
 10 A. Maybe two.  
 11 Q. Are they also bus operators?  
 12 A. One bus operator, another work for  
 13 subway, MTA.  
 14 Q. Did you show this to your wife?  
 15 A. Yes.  
 16 Q. Did you show this badge to any of  
 17 your relatives?  
 18 A. No.  
 19 Q. Did the detectives speak to you  
 20 after you were introduced?  
 21 A. He just call me I'm arrested.  
 22 Q. Did they tell you why you were  
 23 being arrested?  
 24 A. About I carry illegal, fake badge.  
 25 Q. Did you say anything in response?

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1 DIKLER  
 2 Q. What did the detectives do after  
 3 you were informed that you were placed under  
 4 arrest?  
 5 A. Handcuff me.  
 6 Q. Anything else?  
 7 A. That's it.  
 8 Q. Were you removed from 26 Federal?  
 9 A. Yes.  
 10 Q. How were you removed? Were you  
 11 driven in a car or did you walk somewhere?  
 12 A. We walk so far because detectives'  
 13 car was parked so far from federal building,  
 14 Federal Plaza, 26, through the building,  
 15 through the street, all the way out.  
 16 Q. Did you recall what kind of vehicle  
 17 it was?  
 18 A. Chrysler or Dodge, black, that's  
 19 it.  
 20 Q. So this was not a marked blue and  
 21 white NYPD patrol car?  
 22 A. No.  
 23 Q. Where were you placed, in the front  
 24 or the back seat?  
 25 A. On the back seat.

16 (Pages 58 to 61)

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1 DIKLER

2 Q. Where did the second detective sit?  
3 Passenger?4 A. Both of them in the front seat,  
5 driver and passenger.6 Q. Did you say anything to the  
7 detectives as you were walking out of 26  
8 Federal?9 A. No, I just -- I look on my legs, I  
10 just -- no.11 Q. Did you make any phone calls before  
12 you left 26 Federal?13 A. No. They took my phone when I was  
14 arrested.15 Q. Did you say anything to the  
16 detectives while you were in the car?

17 A. I don't remember.

18 Q. Did they say anything to you?

19 A. I don't remember.

20 Q. How long was the drive?

21 A. Short.

22 Q. What happened after you got to the  
23 precinct?24 A. Detective just put me on cell and  
25 uncuff me, take out my belt, take out my laces,

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1 DIKLER

2 to you?  
3 A. They tell me they going to bring me  
4 to the jail to Central Booking.5 Q. How long were you at the precinct?  
6 A. I'm sorry?7 Q. How long were you at the precinct?  
8 A. You mean, oh, 5th Precinct?

9 Q. Yes.

10 A. Two hours, maybe a little bit  
11 longer, I don't remember.12 Q. Did the same detective take you to  
13 Central Booking?

14 A. Yes.

15 Q. And how long were you at Central  
16 Booking?17 A. Till 11:00, 11:30 next day, 11:30  
18 a.m.

19 Q. Were you brought before a judge?

20 A. I'm sorry?

21 Q. Were you taken to see a judge?

22 A. Yes, next day about 11:30, I saw  
23 the judge.24 Q. And what, if anything, did the  
25 judge say to you?

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1 DIKLER

2 that's it.

3 Q. Did he say anything to you?

4 A. Yes, we got some conversation. She  
5 let me call to my wife.

6 Q. This was a female officer?

7 A. Two male, two male officers.

8 Q. Okay.

9 A. And they let me make a call to my  
10 wife.

11 Q. What did you tell your wife?

12 A. True.

13 Q. I'm sorry?

14 A. True, I'm arrested.

15 Q. Did you tell her why?

16 A. Yes.

17 Q. Okay. What did she say?

18 MR. ZELMAN: Objection, that's  
19 spousal privilege, don't answer.20 MS. PRIVETERRE: I believe only the  
21 wife could assert that privilege, right?

22 MR. ZELMAN: No. Privilege.

23 MS. PRIVETERRE: Mark that for a  
24 ruling.

25 Q. Did the detective say anything else

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1 DIKLER

2 A. Judge said me, see you June 15.  
3 Q. Were you told then anything else  
4 about the charges against you?

5 A. No.

6 Q. Did you say anything to the judge?

7 A. No.

8 Q. Did you enter any plea?

9 A. No.

10 Q. Or any explanation?

11 A. No.

12 Q. So your return date was June?

13 A. June 15.

14 Q. And did you return on June 15th  
15 2006?

16 A. Yes.

17 Q. What happened then?

18 A. Case dismissed.

19 Q. Do you know why it was dismissed?

20 Was it something that you or your lawyer did?

21 A. I don't know. My lawyer, I don't  
22 know why it was dismissed.23 Q. Did you retain a lawyer for this  
24 case?

25 A. Yes.

17 (Pages 62 to 65)

1 DIKLER

2 Q. So you only made one appearance,  
3 that appearance on June 15th 2006?

4 A. Correct.

5 Q. Was this the first time you had  
6 been arrested?

7 A. Yes.

8 Q. Had you ever been arrested in the  
9 Soviet Union?

10 A. Never in my life.

11 Q. Do you claim any psychological  
12 injuries stemming from this incident?

13 A. No.

14 Q. Did you sustain any physical  
15 injury?16 A. I complain to my doctor about the  
17 on few days after that I start feel the kidney  
18 stone pain.19 Q. Had you ever suffered from kidney  
20 stones before this incident?

21 A. I got surgery before.

22 Q. And did you attribute this kidney  
23 stone problem to the arrest and detainment?

24 A. I don't know.

25 Q. Did you ask your doctor whether it

1 DIKLER

2 A. Yes.

3 Q. What damage was done?

4 A. I was called to general  
5 superintendent, supervision office, I was  
6 suspended from job for five days. And  
7 detective, when I was in the precinct, 5th  
8 Precinct on this day, I have to go to my job  
9 and detectives tell me call to your job about  
10 you're sick so.11 MR. ZELMAN: The question is, how  
12 was your representation damaged? That's  
13 the question.14 A. And I called my job about I'm sick.  
15 So when I show up in office, they call me liar  
16 because there was not sick, you were arrested  
17 and you call about you're sick.18 Q. Which detective told you to call in  
19 as a sick day?

20 A. Both of them.

21 Q. Did they force you to do that?

22 MR. ZELMAN: Objection.

23 A. I don't remember. I tell them I  
24 need to call to my job.

25 MR. ZELMAN: The question is, did

1 DIKLER

2 was related?

3 A. I just complain him.

4 Q. Well, what was your doctor's  
5 response or diagnosis?6 A. He tell me it could be connect to  
7 your arrest but could be not, he didn't know  
8 exactly.

9 Q. Did he take any tests?

10 A. No.

11 Q. How soon after you were released  
12 did you seek consultation regarding the kidney  
13 stones?14 A. I was released on Wednesday and I  
15 see the doctor on Sunday.

16 Q. Is this Dr. Weiss?

17 A. Yes.

18 Q. Did you have any complaints other  
19 than the kidney stones?

20 A. No.

21 Q. When did you have that surgery  
22 related to the kidney stones?

23 A. 2004.

24 Q. Do you claim any damage to your  
25 reputation because of this incident?

1 DIKLER

2 they force you?

3 THE WITNESS: No, just advice.

4 Q. Why did you take their advice?

5 A. I have to call to my job anyway  
6 about the reasons why I can't report to the  
7 job.

8 Q. So would you have called --

9 A. The officer told them don't tell  
10 them you're arrest, just tell them you're sick  
11 today. That's what I do.12 Q. Would you have called in sick  
13 regardless of what the detectives advised you?14 A. I called in for my job and call  
15 myself sick.16 Q. My question is, would you have  
17 called in sick anyway regardless of what the --

18 A. No.

19 Q. How would you have called it in?

20 A. I want to call to my job and tell  
21 them true, I'm arrest, but detective tell me  
22 don't tell them you're arrest, tell them that  
23 you are sick.24 MR. ZELMAN: Two seconds while  
25 there's no question.

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1 DIKLER  
 2 (Whereupon, Mr. Zelman and the  
 3 Witness stepped out of the room and  
 4 returned.)

5 MS. PRIVETERRE: Can I have the  
 6 last read back.

7 (Whereupon, the referred to  
 8 question and answer was read back by the  
 9 Reporter.)

10 A. They tell me you are not first who  
 11 was arrest for this badge and everybody called  
 12 to the sick to the job.

13 Q. But they didn't force you to call  
 14 in sick, correct?

15 MR. ZELMAN: Objection.

16 A. Yes.

17 Q. Yes, they did force you?

18 A. They give me the advice.

19 Q. But did they force you to call in  
 20 sick; yes or no?

21 MR. ZELMAN: Objection.

22 A. I don't know.

23 Q. So are you changing your response?

24 MR. ZELMAN: Objection.

25 A. They hardly advise me.

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1 DIKLER  
 2 first 24 hours and I failed because I called  
 3 myself sick so I lied to MTA.  
 4 Q. Did Mr. Outlaw know the reason why  
 5 you were arrested?

6 MR. ZELMAN: Objection.

7 A. Yes.

8 Q. Did you tell them the reason?

9 A. Yes.

10 Q. What did you say to him?

11 A. (No verbal response.)

12 Q. What did you say to Mr. Outlaw?

13 A. I say I will be arrested because I  
 14 have a fake badge.

15 Q. Did Mr. Outlaw say anything to you  
 16 in response?

17 A. I don't remember now.

18 Q. Did he tell you that you had broken  
 19 any MTA rules with respect to the badge, the  
 20 fake badge?

21 A. I don't remember.

22 Q. Did he give you anything in writing  
 23 concerning your suspension?

24 A. Yes, I sign some paper.

25 Q. Do you have a copy of that?

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1 DIKLER

2 Q. I'm sorry, they?

3 A. Hardly advise me.

4 MR. ZELMAN: Strongly?

5 A. Strongly advise me, I'm sorry.

6 Q. Did you feel forced to make the  
 7 call in sick?

8 MR. ZELMAN: Objection.

9 A. I have to call to my job. And I  
 10 want to say I'm arrest but the detective tell  
 11 me don't say you're arrest, call them you're  
 12 sick today.

13 Q. And you made the decision to call  
 14 in sick?

15 A. Yes.

16 Q. Okay. What's the name of the  
 17 person who told you that you would be suspended  
 18 for five days?

19 A. Dennis Outlaw.

20 Q. What is his title?

21 A. General superintendent, he's the  
 22 boss for Flatbush depot.

23 Q. What specifically did he tell you  
 24 was the reason for the suspension?

25 A. I must report about my arrest on

1 DIKLER

2 A. Probably I got some copy.

3 MS. PRIVETERRE: I'm going to call  
 4 for production, I'll memorialize this  
 5 request in writing.

6 MR. SILVERMAN: Join in that

7 request.

8 Q. Did you read what you signed before  
 9 you signed it?

10 A. Yes.

11 Q. Did the document make reference to  
 12 any rules that the MTA had concerning fake  
 13 badges?

14 A. I don't remember.

15 Q. Did you have any hearing concerning  
 16 this suspension, did you have to go before  
 17 any --

18 A. Before suspension?

19 Q. Yes, was there a hearing?

20 A. I don't understand the question.

21 Q. Did you have to -- well, withdrawn.  
 22 Were you represented by a union?

23 A. Yes.

24 Q. And was the union rep with you  
 25 during your meeting with Mr. Outlaw?

19 (Pages 70 to 73)

Page 74

1 DIKLER  
 2 A. Yes.  
 3 Q. Was anyone else present?  
 4 A. No.  
 5 Q. Was it your understanding that you  
 6 had broken an MTA rule concerning badges?  
 7 MR. ZELMAN: Objection.  
 8 A. I don't remember, I don't know.  
 9 Q. Did you ask during your meeting  
 10 with Mr. Outlaw if you had violated any MTA  
 11 rules?  
 12 A. He tell me something.  
 13 Q. What did he say?  
 14 A. I don't remember exactly but it was  
 15 some conversation about that.  
 16 Q. About what?  
 17 A. I broke some MTA rules.  
 18 Q. Concerning fake badges?  
 19 A. Yes, but.  
 20 Q. Did you have any out-of-pocket  
 21 expenses?  
 22 A. Oh, yes.  
 23 Q. How much?  
 24 A. I pay around 6500 to Mr. Belleck  
 25 (phonetic).

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1 DIKLER  
 2 probably on this time \$24 per hour, I don't  
 3 remember exactly.  
 4 Q. What's your base pay?  
 5 A. I'm sorry?  
 6 Q. Your yearly pay.  
 7 A. It was my first three years on the  
 8 job, it's increase so.  
 9 Q. Well, what was it at the time of  
 10 2006?  
 11 A. I don't remember, I need to check  
 12 my tax form.  
 13 MS. PRIVETERRE: I'm going to call  
 14 for production of that information and  
 15 I'll memorialize it in writing.  
 16 Q. What's your current base pay?  
 17 A. 60,000.  
 18 Q. Any other expenses?  
 19 A. Well, after that, I buy some  
 20 medicine like because I can't sleep, I can't  
 21 sleep for weeks. What else?  
 22 Q. Was this prescription medicine?  
 23 A. No.  
 24 Q. Over the counter?  
 25 A. No, it just from pharmacy.

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1 DIKLER  
 2 Q. Was he your attorney?  
 3 A. Yes.  
 4 Q. Was this your attorney appointed by  
 5 a union?  
 6 A. No, this is attorney hired by my  
 7 wife.  
 8 Q. So a private attorney?  
 9 A. Yes.  
 10 Q. Any other expenses?  
 11 A. Five days without pay. One day  
 12 without pay when I was arrested.  
 13 Q. You lost a day's pay when you were  
 14 arrested?  
 15 A. Yes.  
 16 Q. Did you have any sick time to use?  
 17 A. I have sick time but because I lied  
 18 them, they just suspend this day.  
 19 Q. So you were charged a day?  
 20 A. Right.  
 21 Q. Although you had called in sick?  
 22 A. Yes.  
 23 Q. And how much could you approximate  
 24 that you lost from six days without pay?  
 25 A. I don't remember. Now I got 27,

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1 DIKLER  
 2 Q. But did a doctor prescribe this?  
 3 A. No.  
 4 Q. How much out of pocket did you  
 5 spend on sleep medicine?  
 6 A. Probably a hundred dollars  
 7 altogether.  
 8 Q. For what period of time?  
 9 A. A few weeks.  
 10 Q. A few meaning three?  
 11 A. Three, four weeks because almost  
 12 whole month I got problem with my sleeping.  
 13 Q. Did you complain to Dr. Weiss about  
 14 this?  
 15 A. Yes.  
 16 Q. What did he say?  
 17 A. He told me you need some time,  
 18 relax, something like that.  
 19 Q. Any other expenses?  
 20 A. No, just my reputation, I don't  
 21 know how much cost.  
 22 Q. Who told you that your reputation  
 23 had been damaged?  
 24 MR. ZELMAN: Objection to form.  
 25 You can answer if you understand the

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DIKLER

question.

A. I mean, until I wait for June 15 from March 23rd, I didn't know how the case will be, what the significance will be. And Mr. Outlaw tell me if this case will be not dismissed, any another decision like fee or something like that, you will be fired because you guilty. Only one way when you stay on the job the case dismissed so, and I, until I wait for June 15, I was worried every day.

Plus I didn't spend the night at home, it happened first time for 15 years and my kids, they ask me. It's terrible, it's real terrible. And after that, next week, next week after I was arrested, I got vacation and I got air tickets, I have to go to Russia. And Mr. Belleck, my attorney, he tell me I can't leave the country, so I cancelled whole trip. And the last day when I still get about three hours before plane, I was Mr. Belleck' office and he called to the district attorney, in the last second they let me left the country.

So I just call again to air company, I activate my tickets again, I go from

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DIKLER

one hour per day. Every time because when I was on vacation, I didn't know when I come back to my job, I didn't know, probably I already don't have the job. It's not about the judge decision about June 15, it just about the job, when I come back, I was suspended for five days after my vacation, and after that, when I work all the time, I keep in my mind about June 15, probably I work last months. I didn't know how it's finished, the case.

Q. After you got back from Russia, your vacation in Russia, were your duties as an MTA operator curtailed or were your hours cut? Was your route changed?

A. When I come back from Russia, they suspend me for five days after my vacation, and after that, I come back on full duty.

Q. Full duty, same route?

A. Yes, nobody can take from you on the job.

MR. ZELMAN: Full duties, same route?

THE WITNESS: Yes.

Q. Other than Mr. Outlaw and your

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DIKLER

2 Manhattan right to JFK without my luggage.

Q. But you were able to go on your trip?

A. Yes.

Q. When was that trip?

A. This was the -- I spent ten days in Russia to my relatives.

Q. But do you recall what month?

A. It was -- I leave like this was the Monday, I remember it was Monday. This why I ask my doctor can I -- what I have to do because I got the back pain from the kidney stone and but I'm not sure I can fly at all because of the district attorney doesn't let me, so this week, it was terrible week on my wife. I never was arrested before, I never was handcuffed, I don't know how it feel. Now I know.

Q. So did you have insomnia during your trip in Russia?

A. I'm sorry?

Q. Did you experience sleeplessness during your stay in Russia?

A. First two weeks I sleep probably

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DIKLER

union rep, did you tell anyone else at the MTA about this arrest?

A. Another bus operator, they know that, they know I was arrested.

Q. How did he know or she know?

MR. ZELMAN: If you know.

A. I told somebody and somebody tell another guy, so everybody, almost everybody in depot knew I was arrested.

Q. Because you told them?

MR. ZELMAN: Objection.

A. Yes, because everybody got the same badges.

Q. Did you seek any counselling or therapy?

A. I'm sorry?

Q. Did you seek any counselling or therapy because of this incident?

A. I don't remember.

Q. Have you ever been to a psychiatrist?

A. No.

Q. Have you ever been to a psychologist?

21 (Pages 78 to 81)

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1 DIKLER  
 2 A. No.  
 3 Q. Have you ever been to a mental  
 4 health provider?  
 5 A. No.  
 6 Q. Does that refresh your recollection  
 7 as to whether or not you sought counselling?  
 8 A. I'm sorry?  
 9 Q. Repeat that?  
 10 A. Can you rephrase, please.  
 11 Q. You stated that you've never seen a  
 12 psychiatrist, you never consulted with a  
 13 psychologist, you never consulted with a mental  
 14 health professional. So going back to my  
 15 question, the question which you answered "I  
 16 don't remember", have you sought any  
 17 counselling because of this incident?  
 18 A. I don't remember.  
 19 Q. Were you up for a promotion at the  
 20 time of this arrest?  
 21 A. I'm sorry.  
 22 Q. Were you in line for any promotion  
 23 at the time of this arrest?  
 24 A. I don't remember.  
 25 Q. Were you informed by Mr. Outlaw

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1 DIKLER  
 2 Q. -- conditions.  
 3 A. It's from different way, you know.  
 4 Q. What different way?  
 5 A. Now when I see the police  
 6 detective, I am real afraid.  
 7 Q. Why?  
 8 A. I don't know why, it just inside me  
 9 because on my job, you must be cooperative with  
 10 the police officer and I was and I am  
 11 cooperative, but anyway, it's some feeling I  
 12 can't explain. And if something when I see the  
 13 regular police cop, but when I see the  
 14 detective, I -- it's really scaring me.  
 15 Q. How often do you see detectives?  
 16 A. Now I know the detective when I see  
 17 the guys with the badge and clothing and some  
 18 special car, unmarked, I know this is  
 19 detective.  
 20 Q. Did you know what a detective's  
 21 badge looked like before this arrest?  
 22 A. No, I never saw them.  
 23 Q. Are there any other ways in which  
 24 you feel terror or fright?  
 25 A. Sometimes in my job somebody tell

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1 DIKLER  
 2 that you were under consideration for a  
 3 promotion that might be affected because of  
 4 this arrest?  
 5 A. I don't remember.  
 6 Q. From 3/22/06 to the present, April  
 7 2nd 2008, have you been promoted in any way  
 8 from a bus operator for the MTA?  
 9 A. No.  
 10 Q. Has your route changed since March  
 11 22nd 2006?  
 12 A. Every three, four months.  
 13 Q. Did the changes have anything to do  
 14 with your arrest?  
 15 A. No.  
 16 Q. In what way were you caused to feel  
 17 terror because of this incident?  
 18 A. I'm sorry?  
 19 Q. In what way were you caused any  
 20 terror, any fright?  
 21 A. I don't understand the question,  
 22 I'm sorry.  
 23 Q. Mr. Dikler, your complaint states  
 24 that you suffered terror among other --  
 25 A. Oh.

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1 DIKLER  
 2 me oh, I remember when you was arrested.  
 3 It's -- I feel bad after that, you know. Every  
 4 time when I just remember this day, it's like  
 5 four months ago, my oldest daughter, she's  
 6 almost ten now, she tell me, she didn't know I  
 7 was arrested, but she tell me, dad, you  
 8 remember when you don't sleep at home? I  
 9 didn't know if she remembered that, but she  
 10 remembered and it feels...  
 11 Q. Did the children go --  
 12 MR. ZELMAN: Can you let him  
 13 finish.  
 14 A. I am finished.  
 15 Q. And I only interrupted because it's  
 16 nonresponsive to my question. Did your  
 17 children accompany you on the vacation to  
 18 Russia?  
 19 A. No.  
 20 Q. Who went on that vacation?  
 21 A. I was alone.  
 22 Q. So you didn't sleep at home with  
 23 your children during those ten days, correct?  
 24 A. Absolutely.  
 25 Q. Does your daughter speak to you

22 (Pages 82 to 85)

1 DIKLER  
 2 about the ten days that you didn't sleep at  
 3 home?  
 4 A. She knows I was on vacation.  
 5 Q. Okay. Were you caused any other  
 6 mental injury that you can tell me about?  
 7 A. A few months after that, it was  
 8 just -- it was a terrible time for me, real  
 9 terrible. Every time when I wear this badge  
 10 (indicating), I remember about another badge,  
 11 it's how it's connected.  
 12 Q. And when you say this badge, you're  
 13 pointing to Defendant's Exhibit B, the MTA?  
 14 A. The shoulder badge.  
 15 Q. Also the MTA issued badge?  
 16 A. Right.  
 17 Q. Okay. And this makes you remember  
 18 the badge that you bought on your own?  
 19 A. Yes, just refresh my memory every  
 20 time.  
 21 Q. That was not issued by the MTA?  
 22 A. No.  
 23 Q. No, it was not?  
 24 A. No.  
 25 Q. Have you lost any time from work

1 DIKLER  
 2 in Defendant's Exhibit A?  
 3 MR. ZELMAN: Listen to the  
 4 question. Do you know if there's an MTA  
 5 regulation?  
 6 A. Yes, now I know.  
 7 Q. When did you first find out about  
 8 this regulation?  
 9 A. When I was arrested in few weeks  
 10 after that in the depot, they put, the MTA put  
 11 the big signs about the fake badges.  
 12 Q. Do you know if this was in response  
 13 to your arrest?  
 14 A. I don't know.  
 15 Q. Did you make any inquiries or did  
 16 you ask Mr. Outlaw if that posting was related  
 17 to your arrest?  
 18 A. No, I didn't ask.  
 19 Q. Do you know if any of your other  
 20 colleagues, other bus operators have been  
 21 arrested?  
 22 A. Yes.  
 23 Q. How many?  
 24 A. I know two or three.  
 25 Q. Were they arrested before or after

1 DIKLER  
 2 because of this feeling upset?  
 3 A. I don't remember. I call myself  
 4 sick a few times but I don't remember exactly  
 5 what the reason was.  
 6 Q. Could it have been related to your  
 7 lower back problems?  
 8 A. Yes.  
 9 Q. And your kidney stones?  
 10 A. Once.  
 11 Q. And in terms of your co-workers  
 12 that remind you that you were arrested, is this  
 13 the person that you told about your arrest?  
 14 A. I told him, just few people, but  
 15 they told somebody else and after that almost  
 16 everybody knew that.  
 17 Q. Why did you tell a few people about  
 18 your arrest?  
 19 A. Because I want to inform them  
 20 because they got the same badges. Like almost  
 21 hundred percent of the bus operators, they  
 22 carry the same badges.  
 23 Q. As you sit here today, do you know  
 24 if there is an MTA regulation against  
 25 purchasing or wearing badges that are depicted

1 DIKLER  
 2 you?  
 3 A. Before and after.  
 4 Q. And did you know about those  
 5 arrests before March 22nd 2006?  
 6 A. No.  
 7 Q. When did you find out that there  
 8 were bus operators arrested before March 22nd  
 9 2006?  
 10 A. After I was arrested when I come  
 11 back to the job.  
 12 Q. Who told you?  
 13 A. I don't remember.  
 14 Q. Was it Mr. Outlaw?  
 15 A. No.  
 16 Q. Do you know if those bus operators  
 17 were suspended from work?  
 18 A. I don't remember.  
 19 Q. Have you purchased another badge  
 20 similar to the one that's depicted in  
 21 Defendant's Exhibit A?  
 22 A. I'm sorry, I don't understand the  
 23 question.  
 24 MS. PRIVETERRE: Can you read back.  
 25 (Whereupon, the referred to

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1 DIKLER  
2 question was read back by the Reporter.)  
3 A. No.  
4 Q. Do you intend to?  
5 A. No.  
6 Q. Have you read the posting in the  
7 depot about fake badges?  
8 A. I'm sorry?  
9 Q. Did you read the posting?  
10 A. Yes, I read it. It was still on  
11 the wall for a few months.  
12 Q. Did you see either of the vendors  
13 that you testified about before at the depot  
14 after the posting was put up?  
15 A. No.  
16 Q. Did you say anything to Mr. Outlaw  
17 about these vendors?  
18 A. No.  
19 Q. Did you make any inquiries? Did  
20 you ask him why the vendors were permitted to  
21 sell out of the depot?  
22 A. No, I didn't ask him.  
23 Q. Why not?  
24 MR. ZELMAN: Objection. You can  
25 answer it if you understand the

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1 DIKLER  
2 question.  
3 A. If somebody sell any stuff inside  
4 the depot, it's mean he got official permission  
5 for that.  
6 Q. Who told you that it means that the  
7 vendor has official permission?  
8 A. Nobody can enter to MTA property  
9 without the permission to presence and make any  
10 business on MTA property.  
11 Q. But, sir, my question is, who told  
12 you?  
13 A. I don't remember.  
14 Q. Somebody did tell you and you  
15 forgot?  
16 A. I don't remember.  
17 Q. Did you use this as a part of a  
18 defence when you met with Mr. Outlaw that there  
19 was a vendor authorized to sell these badges  
20 out of the depot?  
21 A. I don't remember.  
22 Q. Did you ask Mr. Outlaw why you were  
23 being suspended if they were allowing vendors  
24 to sell out of the depot?  
25 A. I don't remember.

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DIKLER

1 Q. Had you been advised by any  
 2 physician concerning your weight prior to the  
 3 arrest?

4 A. No.

5 Q. Did Dr. Weiss attribute your  
 6 hypertension to the arrest?

7 A. I'm sorry?

8 Q. Did Dr. Weiss blame your arrest as  
 9 the cause of the hypertension?

10 A. He call it, it's maybe one of  
 11 reason.

12 Q. What are the other reasons?

13 A. Now it's my weight.

14 Q. But when you first complained to  
 15 Dr. Weiss about hypertension, did he say that  
 16 it was a number of reasons?

17 A. He call me just about my job,  
 18 because you almost not move, just sit job.  
 19 Arrest and weight. Because I spend the night  
 20 in the jail, I didn't sleep, I sit on the  
 21 floor, it's like that.

22 Q. But Dr. Weiss also blamed the  
 23 hypertension partly because your job is to sit  
 24 a lot, to be sedentary, is that what he was

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1 back pain?

2 A. He tell me it could be one of  
 3 reasons.

4 Q. Anything else other than the  
 5 hypertension and the soccer?

6 MR. ZELMAN: Objection to form.  
 7 A. Before, before, I can spend like 16  
 8 hours driving the car and I didn't feel  
 9 nothing. And now, after each two hours, I have  
 10 to make some warmup, stretch my legs, like  
 11 that. And now I real feel it.

12 Q. Presently, you still feel problems  
 13 in your lower back?

14 A. Yes, I just -- I lost ten days on  
 15 the job just two weeks ago and that's why I  
 16 change my doctor because I need a specialist.

17 Q. What's the new doctor's name?

18 A. Michael Riskevich.

19 Q. I'm sorry.

20 A. I gave it.

21 Q. Yes, you did. Has Dr. Riskevich  
 22 told you that the reason for your lower back  
 23 pain is the arrest?

24 A. No.

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1 saying?

2 MR. ZELMAN: Objection.

3 A. I don't remember.

4 Q. And the soccer, why do you blame  
 5 the arrest for not being able to play soccer?

6 A. Because I start feel the low back  
 7 pain after arrest.

8 Q. But isn't it your testimony that  
 9 Dr. Weiss said that the lower back problems  
 10 were partly caused by the kidney stones?

11 A. It's could be connect.

12 Q. Did he explain how it could be  
 13 connected to the arrest?

14 A. Yes, because he tell me you spend  
 15 the night on the metal bench, doesn't move for  
 16 almost 12 hours, it was about, I don't  
 17 remember, 35, 40 guys in the cell and he tell  
 18 me it could be the reason.

19 Q. Had you experienced lower back pain  
 20 prior to March 22nd 2006?

21 A. Once many times ago, far ago.

22 Q. Did Dr. Weiss say that your job as  
 23 a bus driver being sedentary for a number of  
 24 hours a day was also a reason for the lower

DIKLER

1 Q. And the subsequent detention?

2 A. No. I just changed the doctor like  
 3 three weeks ago.

4 MS. PRIVETERRE: I have no further  
 5 questions.

6 EXAMINATION BY

7 MR. SILVERMAN:

8 Q. In connection with your job at the  
 9 MTA, you're required to take annual physicals?

10 A. I'm sorry?

11 MR. SILVERMAN: Can you read back  
 12 the question.

13 (Whereupon, the referred to  
 14 question was read back by the Reporter.)

15 A. What do you mean physicals?

16 Q. Were you ever given a physical by  
 17 anyone on behalf of the MTA?

18 MR. ZELMAN: Physical examination.

19 Q. That you're okay to work.

20 A. I got physical examination every  
 21 six months.

22 Q. Is that by a doctor on behalf of  
 23 MTA?

24 A. By MTA doctors.

25 (Pages 94 to 97)

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DIKLER

MR. SILVERMAN: I would just ask for authorization to obtain the medical records for the MTA pertaining to any six-month or biannual physical examinations for a period of two years prior to this incident up to the present time.

MS. PRIVETERRE: I join.

MR. ZELMAN: I ask any document demands be put in writing.

MR. SILVERMAN: Sure.

Q. As a result of this incident, was any reprimand ever placed in your personnel file?

A. I don't understand.

Q. Was any letter or report or anything generated concerning this incident, to your knowledge, in your personnel file for the MTA?

A. Yes, sure.

Q. Do you have a copy of that letter whatever it was?

A. No, but I signed some paper on my job, this is going to my file, the sentence

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DIKLER

from judge going to my file, the paper about my suspension what I signed goes to my file.

MR. SILVERMAN: Okay. I would just ask for an authorization which we'll follow up in writing for Mr. Dikler's personnel file with the MTA to the extent that there were any issues of any privileged or private records or documents as part of that MTA file, I would be willing to consent to an in camera inspection by the judge. I have no further questions.

MS. PRIVETERRE: I join.

MR. ZELMAN: I have a quick question.

EXAMINATION BY

MR. ZELMAN:

Q. Earlier she asked you if you sustained a psychological injury as a result of the incident and you said no, correct?

A. No, it was a wrong answer.

MS. PRIVETERRE: It was the wrong what?

THE WITNESS: Wrong answer.

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Q. Why did you say --  
A. Because if I can't sleep for months, I call it suffering too now. But I don't understand this question before, that's why I say no.

MS. PRIVETERRE: When did you realize you didn't understand the question?

MR. ZELMAN: Can I finish my questioning?

Q. In addition, you indicated that you were suspended from the MTA for five days because you told them that you were sick instead of telling them you were arrested, correct?

A. It's all connected, yes.

Q. Was there any other reason that you were disciplined by the MTA other than the fact that you told them you were sick when you were arrested?

A. No.

Q. That's the only reason?

A. Yes.

MR. ZELMAN: No further questions.

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CONTINUED EXAMINATION BY  
MS. PRIVETERRE:

Q. The paper that you signed during your meeting or following your meeting with Mr. Outlaw, is it still your testimony that that document made reference to your having been arrested for carrying a fake badge?

MR. ZELMAN: Objection.

A. I'm sorry?

MS. PRIVETERRE: Can you read that back, please.

(Whereupon, the referred to question was read back by the Reporter.)

A. Yes.

Q. And in terms of your changed response concerning psychological injuries, is it still your testimony that you have never seen a psychologist?

MR. ZELMAN: Objection.

A. No, I never seen psychologist.

Q. Have you ever seen a psychiatrist?

A. No.

MR. ZELMAN: Objection.

Q. Have you ever seen a mental health

26 (Pages 98 to 101)

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1 DIKLER

2 provider?

3 A. No.

4 Q. Is there a reason why you didn't  
5 seek help if you were bothered by sleepless  
6 nights?7 A. The reason why I didn't seek the  
8 psychologist or psychiatrist, that's because my  
9 insurance doesn't cover that, it's about money,  
10 I got the kids. But I really can't sleep for  
11 months, that's my answer.12 MS. PRIVETERRE: No further  
13 questions.

14 CONTINUED EXAMINATION BY

15 MR. SILVERMAN:

16 Q. Is it your testimony, as we sit  
17 here today, that for an extended period after  
18 this incident you didn't sleep more than an  
19 hour a night?

20 A. Yes.

21 Q. And that went on for weeks, months?

22 A. With months.

23 Q. Did you ever mention any lack of  
24 sleep to any of the doctors who examined you on  
25 behalf of the MTA?

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1 DIKLER

2 Q. So for the one-month period you had  
3 these sleep issues, you were not working?

4 A. No.

5 MR. SILVERMAN: Okay. I have  
6 nothing further. Thank you.  
7 (Whereupon, at 1:08 p.m., the  
8 Examination of this Witness was  
9 concluded.)

10

11 YEVGENIY DIKLER

12

13 Subscribed and sworn to before me  
14 this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

15

NOTARY PUBLIC

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1 DIKLER

2 A. No.

3 Q. Did you ever mention any lack of  
4 sleep to any doctors after this incident?

5 A. No, because...

6 Q. I'm just asking, did you ever  
7 mention that to any of your doctors?8 A. No, I was on vacation, and after  
9 that I was suspended, it was almost month.10 Q. For how long a period of time was  
11 it that you had the sleep issues that you're  
12 referring to?

13 A. About month.

14 Q. One month?

15 A. Yes.

16 Q. Did you ever work for that  
17 one-month period of time?

18 A. No.

19 (Continued on next page to include  
20 jurat.)

21

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1 DIKLER  
2 EXHIBITS

3

4 DEFENDANT'S EXHIBITS:

5

6 EXHIBIT EXHIBIT PAGE  
7 LETTER DESCRIPTION

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CERTIFICATE

4 STATE OF NEW YORK )

: SS.:

5 COUNTY OF KINGS )

6

7

8 I, MARGALIT EWART, a Notary Public for  
9 and within the State of New York, do hereby  
10 certify:11 That the witness whose examination is  
12 hereinbefore set forth was duly sworn and that  
13 such examination is a true record of the  
14 testimony given by that witness.15 I further certify that I am not related  
16 to any of the parties to this action by blood  
17 or by marriage and that I am in no way  
18 interested in the outcome of this matter.  
19 IN WITNESS WHEREOF, I have hereunto set  
20 my hand this 2nd day of April, 2008.*Margalit Ewart*

23 MARGALIT EWART

24

25

28 (Pages 106 to 108)

**ERRATA SHEET**

2 I wish to make the following changes, for the  
3 following reasons:

4 PAGE LINE

5 -----

CHANGE: -----

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7 ----- ----- CHANCE:

8 <http://www.elsevier.com/locate/bsm>

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## REASON:

----- **SUMMER** -----

MANAGED BY 

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